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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

MONDAY, MAY 8, 2006

10:10 A.M.

KATHRYN S. KENYON, CSR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Ms. Cheryl Peace

Ms. Pat Wiggins

ALSO PRESENT

Ms. Margo Brown, Board Chair

Mr. Jeffrey Danzinger, Board Member

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Michael Bledsoe, Staff Counsel

Mr. Elliott Block, Acting Chief Counsel

Mr. Howard Levenson, Deputy Director

Ms. Angela Basquez

Mr. Mark de Bie, Manager, Permitting & Inspection Branch

Ms. Donnell Duclo, Committee Secretary

ALSO PRESENT

Richard Archdeacon, LEA representative, City of San Jose

Mr. Evan Edgar, Zanker Road Resource Recovery Operation
and Landfill

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APPEARANCES CONTINUED

Mr. Paul Lineberry, Zanker Road Resource Recovery
Operation and Landfill

Ms. Linda Lye, International Brotherhood of Teamsters

Mr. Joe Simonian

Mr. Hutch Der Stepanian, American Waste Industries

Mr. Wayne Tsuda, LEA Program Director, City of Los Angeles

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1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone.

3 Welcome to the May 8th meeting of the Permitting
4 and Enforcement Committee.

5 We have agendas on the back table and if anyone
6 would like to speak to an item, please fill out a
7 speaker's form and bring it up to Donnell, and you will
8 have an opportunity to address the committee.

9 Also, I would like to ask everyone to please
10 either turn off or put in the silent mode your cell phones
11 and pagers.

12 And before we get started, I just want to read
13 something for everyone here at this committee meeting.
14 Last week we received an e-mail from our folks here at the
15 Cal EPA building. And this was regarding an evacuation
16 drill. So I just want to go over some instructions for
17 you before we get started today.

18 The Cal EPA headquarters building will participate
19 in full building evacuation drill which will be held some
20 time in the next few weeks. In the event it occurs while
21 you are in our meeting today, please listen to the
22 following instructions.

23 In the event of a fire alarm, we are required to
24 evacuate this room immediately. Please take your
25 valuables with you and go to any of the exits in this

1 room. Evacuees will exit down the stairways and possibly
2 to a relocation site across the street.

3 If anyone in this room cannot use the stairs,
4 please identify yourself so that we can assist you during
5 the drill. And if you could identify yourself right now,
6 if there's anyone that needs assistance.

7 Okay. Thank you.

8 I guess no one needs help here. We're all just
9 fine.

10 Okay. With that, I just want to check and see if
11 members -- Donnell, would you call the roll first?

12 SECRETARY DUCLO: Members Peace?

13 COMMITTEE MEMBER PEACE: Here.

14 SECRETARY DUCLO: Wiggins?

15 COMMITTEE MEMBER WIGGINS: Here.

16 SECRETARY DUCLO: Chair Mulé?

17 CHAIRPERSON MULÉ: Here.

18 How about ex-parte, Board Member Peace?

19 COMMITTEE MEMBER PEACE: I'm up to date.

20 CHAIRPERSON MULÉ: Board Member Wiggins?

21 COMMITTEE MEMBER WIGGINS: I'm up to date.

22 CHAIRPERSON MULÉ: I'm up to date with the
23 exception that the Board -- the Committee just received --
24 actually the full Board just received a letter on Item 20.
25 It's dated May 6th. It is -- it was addressed to the

1 entire Board, and it is from American Waste industries.

2 And I won't read the entire letter into record, but let
3 the record reflect that we did receive this letter.

4 And also, I would like to acknowledge Board Member
5 Danzinger. Thank you for being here today.

6 And with that, Howard, if you could provide us
7 with your Deputy Director's Report.

8 DEPUTY DIRECTOR LEVENSON: Thank you. Good
9 morning, Committee Members and Member Danzinger.

10 I'm Howard Levenson with Permitting and
11 Enforcement Division.

12 I have a rather lengthy Deputy Director's Report
13 this morning. A lot has been happening. I think it's
14 worth updating you on a number of these activities.

15 First of all I would like to update you on the
16 permitting, implementation, regulations effort, which as
17 you know, this involves issues such as significant change
18 in the design or operation of a solid waste facility
19 that's not authorized by its existing permit, as well as
20 requirements for public hearings for all permits, new and
21 revised permits.

22 The formal 60-day comment period began
23 April 7th and it will end June 6th. And we will have the
24 required public hearing on the afternoon of June 5th,
25 after the Permitting and Enforcement Committee Meeting

1 that morning.

2 We did have a couple of workshops last month to
3 let stakeholders ask questions about the draft
4 regulations, prior to beginning the formal rule-making
5 period.

6 Now I would like to update you on rule makings by
7 other agencies that have impacts on the AB 939
8 infrastructure. There have been a number of proposals
9 over the last few years from air districts and regional
10 water boards, on issues such as chemical emissions,
11 potential groundwater contaminations from composting
12 facilities, as well as odor emissions from transfer
13 stations and MRFs. These certainly are driven by very
14 understandable air and water quality concerns, statutory
15 mandates that if they're implemented prescriptively, as
16 they've been drafted, they could have major impacts on the
17 AB 939 diversion infrastructure.

18 So we've been engaged in a number of these and
19 just want to give you a brief update on three of them, in
20 particular.

21 One is the draft -- waste discharge requirements
22 for green waste composting that have been circulated by
23 the Central Valley Regional Water Control Board.

24 After our executive director spoke with the
25 regional water board's executive director, staff met on

1 April 20th to discuss this draft. And I would say, this
2 is one of the more positive meetings we've had with a
3 sister regulatory agency.

4 The initial draft would have prescribed extensive
5 monitoring requirements for all of the facilities in that
6 region, which is a huge geographic region. We had a very
7 open, cooperative discussion with the regional Board staff
8 and ended up agreeing to work together, before another
9 draft of the WDRs issue public comment, to do three
10 things:

11 One is to better define the universe of operations
12 that would be covered.

13 A second is to develop potential performance-based
14 language that would allow operators to meet water quality
15 protection goals without necessarily having to install
16 expensive impermeable services;

17 And then third, to develop a process for meeting
18 with operators and other stakeholders to explain these
19 goals and potential changes, again, before this goes out
20 for another circulation as draft.

21 So I think that was a very positive meeting.

22 Secondly, I think most of you are familiar with
23 proposed Rule 410, from the South Coast Air Quality
24 Management District.

25 Last year the district proposed a very

1 prescriptive regulation to control odors from transfer
2 stations and MRFs. In most instances, that would have
3 required enclosure of existing and planned facilities.

4 Now, we certainly recognize that odors of these
5 facilities can be a problem, but both industry
6 representatives and Waste Board staff felt that the
7 proposed regulatory approach was not flexible enough to
8 address site-specific kinds of issues. It didn't take
9 advantage of the odor management expertise that LEAs
10 already have, as part of their regulation of composting
11 facilities, nor the fact that the LEAs would be out of
12 these transfer stations and MRFs once a month, regardless.

13 So we proposed an alternative approach in which
14 operators would voluntarily submit odor management plans
15 to the LEA. The LEA would enforce the design and
16 operational aspects of the plans to work with operators to
17 revise the plans. And the district -- the Air District --
18 would still be responsible for addressing community
19 complaints.

20 The air district staff has been evaluating this
21 proposal and other comments. And they have scheduled a
22 working group meeting on May 18th to discuss this with
23 stakeholders.

24 Based on a conference call that we had with the
25 AQMD staff on May 4, we are hopeful that the Air District

1 will be amenable to some alternative, such as the one we
2 proposed late last year. So that's -- I hope that's some
3 progress on that front.

4 Lastly, there is another rule being proposed by
5 the San Joaquin Valley Unified Air Pollution Control
6 District.

7 This is patterned after the south coast's rule,
8 PR-1133, on emissions of -- from co-composting facilities.
9 So the valley, in this case it would focus on volatile
10 organic chemicals and on green waste composting rather
11 than on co-composting facilities.

12 There are earlier emission studies available to
13 the district that indicate that green waste composting
14 facilities do generate up to twice the amount of volatile
15 organics per ton of feedstock, compared to co-composters.

16 If you will recall the 1133 rule, down on the
17 south coast, it's designed to move facilities towards
18 enclosed systems with biofilters. If this was applied to
19 green waste composers, again, across the Board, again, it
20 would be a problem for many of them, economically.

21 There's about 51 composters in the San Joaquin district
22 with a total estimated capacity of up to 11 million tons.
23 So again, this can be a big impact on potential diversion
24 rates.

25 We do have a research contract with San Diego

1 State University to do field testing on green waste and
2 food waste composting in the region. And that testing is
3 scheduled to be conducted this summer.

4 So far, the district is agreeable to having our
5 results being considered in the rule-making process and
6 wants to work with us. But the schedule currently shows
7 the potential adoption in February of 2007.

8 So those are three air district boards -- regional
9 water quality board rules that have significant potential
10 impacts. We are involved in all of those and will
11 continue to update you whenever there's any further
12 developments.

13 Just a couple of other items that I do want to
14 mention. Last month, we participated in a multi-agency
15 meeting coordinated by the U.S. Environmental Protection
16 Agency, regarding illegal dumping issues on the Torres
17 Martinez tribal lands in Riverside County. This is one
18 of -- of the 160 tribes in Region 9, this is the one
19 considered to have the worst illegal dumping problems.

20 So there's a very coordinated multi-agency effort
21 going on there. We are involved possibly through some
22 potential solid waste cleanup program and farm and ranch
23 grants. Staff visited some of the sites. We're working
24 with the tribe and U.S. EPA and hope to bring some of
25 those grant applications to you in the next few months.

1 Also last month, as you recall, we had the appeal
2 on Sunshine Canyon and the ADC issue, and there were a
3 number of questions raised about overall LEA programs in
4 Los Angeles County. We did meet with Los Angeles County,
5 the LEA, on April 21st, to discuss the findings that we
6 had from the last LEA evaluation cycle, progress on the
7 LEAs development of a work plan to address those issues,
8 and issues related to enforcement and permitting that have
9 arisen since the evaluations were completed. At that
10 meeting, LEA staff agreed to an overall schedule for
11 accomplishing some of the high priority tasks that were
12 identified in the evaluation, primarily related to permits
13 and permit reviews.

14 Additionally, we as staff agreed to provide some
15 shoulder-so-shoulder assistance and training, as
16 appropriate, for the LEA and to work with the County to
17 help address staffing issues during the revision of the
18 County's enforcement program plan.

19 I would like to note that staffing is an issue
20 that we are see pop up for a number of LEAs, around the
21 state, both rural and urban. And we have, you know,
22 mostly from attrition but also from constraints and the
23 hiring process. And we have discussed this with the
24 directors of environmental health at our last meeting,
25 which was just last week.

1 Let me now turn to an update on avian influenza.
2 Last -- I guess, last week, the week before, we took part
3 in a workshop in Fresno, as part of the Homeland Security
4 Evaluation Program, sponsored by the National Homeland
5 Security Department and by the California Department of
6 Food and Ag. This workshop explored the implications of a
7 highly pathogenic outbreak of avian influenza, in
8 California poultry, as a result, caused most likely by the
9 transmission of the bacteria from wild waterfowl that come
10 over on the migratory pathways later this year.

11 The workshop was intended to improve emergency
12 response preparedness capabilities, including the
13 possibility of having to dispose or manage millions of
14 dead domestic birds, poultry flocks that are infected.
15 This outbreak is possible as early as the fall of 2006.
16 And various experts expect that this is not going to be
17 something that just goes away after a one-year cycle.
18 It's probably going to be around for some ten years, give
19 or take, so it's going to be an ongoing problem.

20 We are now exploring the possibility of a table
21 top exercise, probably in fall, involving federal, state,
22 and local agencies and the private sector, so we kind of
23 run through who does what, what are the communication
24 patterns, who makes what decisions, what guidance can we
25 provide prior to anything happening.

1 But this can be a problem for many, many reasons,
2 not least of which is worker safety and handling these.
3 Because as you probably know from what you have read about
4 this, there has been some transmission of the disease from
5 infected birds to humans, although not from humans to
6 humans. So it's a real problem.

7 CHAIRPERSON MULÉ: Howard, we have a question from
8 Board Member Wiggins.

9 COMMITTEE MEMBER WIGGINS: What does this have to
10 do with homeland security? This is protecting our
11 citizens?

12 DEPUTY DIRECTOR LEVENSON: Well, there is some
13 concern that this could be instigated by a terrorist plot,
14 that there could be birds brought in across the border and
15 infecting some of the domestic fowl.

16 COMMITTEE MEMBER WIGGINS: Okay. Thank you.

17 DEPUTY DIRECTOR LEVENSON: Last, just a couple of
18 updates on upcoming items.

19 On May 24th we have our second meeting of the
20 illegal dumping task force, being handled by Ken Stuart.
21 Later this month, in early June, we have 4 two-day tours
22 of landfills around the state. This will involve not only
23 staff here but also LEAs and operators going around to
24 different landfills, looking at problem sites and the
25 possible solutions.

1 We have training being provided on risk
2 assessment, with three classes in June, and operators,
3 again, are invited to that. So this is all part of trying
4 to roll out the Board's direction to involve operators
5 more systematically.

6 And lastly -- and then I will stop -- we have our
7 ninth LEA Waste Board Annual Conference, August 1st
8 through 3rd in Monterey. You've all been invited and
9 hopefully it's blocked off on your calendar, at least
10 pencilled off. We do have a reception at the Monterey
11 Aquarium on the second night, that we hope you would be
12 able to attend and mingle with all the attendees. And
13 we're also working with the Special Waste Division on tire
14 enforcement issues and we will have three sessions on
15 those issues at the conference.

16 With that, I will close my Deputy's Report and be
17 happy to answer any questions.

18 CHAIRPERSON MULÉ: Great.

19 Thank you, Howard, for thorough recap of just some
20 of the things that you are working -- that your group is
21 working on. I think it's really important for Committee to
22 hear, especially with the regulations with the other
23 agencies. There seems to be more and more of this --
24 these types of regulations pop up, and I'm very encouraged
25 that these other governmental agencies or regulatory

1 agencies are willing to work with us on these issues.

2 So do you have any questions?

3 Board Member Peace.

4 COMMITTEE MEMBER PEACE: I just have one question.

5 You say we're hearing across the state staffing problems

6 with the LEA enforcement division, and they are not

7 getting the adequate inspections that they should be

8 getting. There's no way for us, if we know that, that we

9 would go down and do an inspection and charge them for it?

10 And then we have staffing problems too.

11 DEPUTY DIRECTOR LEVENSON: In order for us to do

12 that, we would have to take an action to take over certain

13 functions of the LEA's responsibilities. Now, we will go

14 down and we will conduct our 18-month inspections of

15 landfills. We certainly try to coordinate with the LEA.

16 And we are typically willing to do joint inspections to

17 calibrate, if you will, what we're all seeing out in the

18 field, but this is something that we are developing a what

19 we call a trigger system, so that when something like

20 inspection reports are not submitted by the LEA, we get a

21 an automatic kickback message from our Solid Waste

22 Information System that says there haven't been any

23 inspection reports for X months. And then we can -- we

24 can more quickly talk to the LEA about that and try and

25 see how we can rectify that.

1 CHAIRPERSON MULÉ: Okay. With that, Howard, why
2 don't we just move into the agenda or items. Just for the
3 record, Committee Items C (sic) and D, Board Agenda Items
4 17 and 18 have been pulled.

5 So today we are going to hear Committee Items E
6 and F (sic). That's Board Items 19 and 20.

7 So Howard, if you could start with Committee Item
8 E (sic).

9 DEPUTY DIRECTOR LEVENSON: We'll start with that
10 one. That hopefully will be short and sweet. This is
11 Consideration Of A Revised Full Solid Waste Facilities
12 Permit (Disposal Facility/Transfer/Processing
13 Station/Compostable Materials Handling Facility) for the
14 Zanker Road Resource Recovery Operation And Landfill in
15 Santa Clara County.

16 Angela Basquez is going to make that presentation.

17 MS. BASQUEZ: Good morning. A copy of the
18 proposed revised permit was handed out today. The changes
19 to the proposed permit include the following. On Page 1,
20 the date of the proposed permit received by CIWMB was
21 received on April 21st, 2006, and on Page 5, Section
22 17(C)(5), which is included on changed language relative
23 to govern every 48 hours.

24 The Zanker Road landfill is an existing landfill
25 owned and operated by the Zanker Road Resource Management.

1 The proposed revised permit is to allow the
2 following:

3 Change the name of the site to the Zanker Road
4 Resource Recovery Operation and Landfill;

5 Increase the maximum amount of material received
6 and processed at the site from 1300 tons per day to 2600
7 tons per day.

8 Change the estimated closure date from 2003 to
9 2029;

10 And update the remaining capacity from
11 1.01 million cubic yards to 700 thousand cubic yards;

12 And expansion of the scale house operation.

13 The LEA has certified the following and staff have
14 made the following determinations:

15 The permit application package is complete and
16 correct;

17 The joint technical document meets the
18 requirements of Title 27, CCR, Section 21600, Title 14,
19 CCR Sections 18221.6 and 18227;

20 The proposed revised solid waste facilities permit
21 is consistent with, and is supported by, the existing CEQA
22 analysis, and the facility is consistent with state
23 minimum standards.

24 In conclusion, staff recommends the Board adopt
25 decision 2006-74, concurring in the issuance of a revised

1 solid waste facilities permit for the Zanker Road Resource
2 Recovery Operation and Landfill, 43-AN-0007.

3 The operator and LEA are here to assist you with
4 any questions you might have.

5 This concludes staff's presentation.

6 CHAIRPERSON MULÉ: Thank you, Angela.

7 Do we have any questions for either Angela or the
8 operator or the LEA?

9 Board Member Peace?

10 COMMITTEE MEMBER PEACE: You said that the permit
11 was revised on April 21st -- on April you received a
12 revised permit. What was revised?

13 MS. BASQUEZ: It was the date of when CIWMB
14 received the proposed permit.

15 COMMITTEE MEMBER PEACE: It is just a date.

16 MS. BASQUEZ: It was a date. And on Page 5,
17 Section 17(C)(5), it was a change to the language
18 regarding cover for every 48 hours.

19 COMMITTEE MEMBER PEACE: Okay.

20 PERMITTING & INSPECTION BRANCH MANAGER de BIE:
21 Member Peace -- this is Mark de Bie with P&E.

22 That last change was, I think, consistent with an
23 observation that Board staff had passed on to the LEA.
24 That previous version of the permit had cited a regulation
25 that had been rescinded, and so we brought that to the

1 LEA's attention, and they were able to remove that
2 citation and work on the language. But it didn't change
3 the emphasis of that requirement at all.

4 COMMITTEE MEMBER PEACE: Okay. And also they
5 mentioned that they did have a 1497 public hearing and
6 that ten people attended.

7 What were some of the concerns that the people
8 brought up?

9 MS. BASQUEZ: Well, I can bring up Mr. Richard
10 Archdeacon, the City of San Jose LEA, and he can discuss
11 that.

12 CHAIRPERSON MULÉ: Good morning. Would you please
13 state your name for the record.

14 MR. ARCHDEACON: Yes. Good morning. My name is
15 Richard Archdeacon. I'm the representative for the LEA
16 from the City of San Jose.

17 We did have a public hearing. I believe it was on
18 March 24th, very recently. And actually we had no members
19 of the public that came to that hearing, but we did
20 receive comments from -- it was actually one of the
21 environmental departments in the city of San Jose. They
22 did not send a representative to the meeting, but they
23 sent a copy of the their comments.

24 And I could sort of briefly summarize those, if
25 you would like.

1 CHAIRPERSON MULÉ: That would be helpful. Thank
2 you.

3 MR. ARCHDEACON: The comments centered on several
4 areas. They were primarily concerned with fugitive dust,
5 and they had also raised some concerns about asbestos.

6 Apparently, these concerns came from the regional
7 water pollution control plant, which is located across the
8 street from Zanker Road Landfill.

9 And our understanding was that apparently they had
10 done some sort of a background test for asbestos fibers,
11 and they had found some normal background levels of
12 asbestos. And of course they were wondering, you know,
13 where did this come from. And I don't think their
14 comments mentioned that -- actually there is a superfund
15 site in the town of Alviso, which is about a mile from the
16 landfill. And that superfund site has been monitored by
17 state agencies for quite a number of years.

18 The levees that were built to safeguard the town
19 of Alviso from flooding apparently used some serpentine
20 soils that contain some natural asbestos. So the natural
21 thought is that, perhaps, some of this is creating a
22 background level in this general area.

23 But in terms of their regards -- their concerns
24 that they had about fugitive dust, we responded to this
25 environmental department within the city, and we explained

1 to them that the permit does require that there be water
2 misting for the operations that utilize conveyor belts and
3 grinders, and that type of thing. And it's been my
4 observation, inspecting the facility, that they do control
5 dust quite well.

6 CHAIRPERSON MULÉ: Yes. Thank you very much.

7 Do you have any other questions?

8 COMMITTEE MEMBER PEACE: I just have one other
9 question. Where it says, "Peak traffic numbers for the
10 project in the final phase will never exceed 1484 vehicles
11 per day." Where in the permit does it say that?

12 MR. ARCHDEACON: I don't believe that number was
13 referenced in the permit. My supervisor, Dennis Ferrier
14 (phonetic) who would have been here, but he's on vacation,
15 had explained to me that he preferred to utilize the
16 tonnage number as the primary method of controlling
17 activity at the landfill. He felt that the actual number
18 of vehicles could change, perhaps, in the future if
19 smaller vehicles were used for delivering materials. And
20 so he focused on tonnage as our primary control.

21 COMMITTEE MEMBER PEACE: So what assurances do we
22 have that there will never be more than 1484 vehicles per
23 day if that's all that's allowed in the mitigated dec?

24 MR. ARCHDEACON: I know the way my supervisor
25 explained it to me was that he felt that -- he explained

1 that the traffic impact analysis that was done by our
2 planning department utilized a type of intersection
3 analysis where they look at the intersection and they
4 examine traffic flow and what kind of impact the increased
5 tonnage would have on that traffic intersection.

6 And they give it some type of a letter grade, A,
7 B, C, or D, depending on how much congestion there is.
8 And he told me that in the environmental document they had
9 looked at that, and they felt that as part of the
10 mitigated negative declaration, that that could be
11 mitigated adequately. And the number that they came up
12 with, I think, he described it as an approximation. And
13 so rather than tie them to that exact number of
14 approximate vehicles, he directed me to focus on tonnage
15 as our primary control for controlling how much comes into
16 the landfill.

17 COMMITTEE MEMBER PEACE: If we're going to look at
18 things as based on tonnage, why do any of our permits then
19 have vehicles, traffic in them?

20 It seems like all other permits have permitted
21 vehicles per day.

22 DEPUTY DIRECTOR LEVENSON: Mark will give us some
23 more information.

24 They typically do have both tonnage and traffic,
25 but not always. It is up to the LEA in terms of what

1 conditions they want to include.

2 COMMITTEE MEMBER PEACE: Would you rather see the
3 traffic in there like most of our other permits?

4 PERMITTING & INSPECTION BRANCH MANAGER de BIE:
5 You know, I think in staff's experience, it's a
6 case-by-case situation. And in some sites, traffic and
7 the flow of traffic is an issue to the level where the LEA
8 sees a need to put some definitive number in there to act
9 as a control. Other sites, it's not a factor. And all of
10 this comes out after the environmental review and what,
11 you know, that information indicates.

12 So it does vary site by site, and therefore the
13 approach that LEAs take does vary. So not all permits
14 have traffic --

15 COMMITTEE MEMBER PEACE: This is okay with you?
16 Would you rather see permitted traffic in the permit? I
17 said, I very rarely see a permit that doesn't have the
18 permitted traffic in there.

19 DEPUTY DIRECTOR LEVENSON: This is a general issue
20 about what are the expectations of -- what conditions
21 should be in the actual permit. And this is an issue that
22 we have flagged a general issue, not specifics, but we
23 have flagged for package B of the permit implementation
24 regulations, if we ever get to that. We got to get
25 through package A first.

1 But the question of what conditions, what
2 parameters should be specified in the actual permit itself
3 has been a subject of discussion between LEAs and Waste
4 Board staff. So that is something we could come back to
5 when we initiate that rule making and traffic could be one
6 of those issues that is on there.

7 COMMITTEE MEMBER PEACE: To me, it kind of seems
8 really vague because they have the tonnage going up in
9 phases, but it says nothing about the traffic. The
10 traffic is going to coincide with the phases, but there's
11 nothing in here about the traffic.

12 DEPUTY DIRECTOR LEVENSON: Correct, but it's tied
13 to the tonnage limits for each phase. And that's all
14 discussed in the environmental documents.

15 COMMITTEE MEMBER PEACE: So the environmental
16 document actually does have vehicles per day that are
17 allowed, in the environmental document?

18 PERMITTING & INSPECTION BRANCH MANAGER de BIE: I
19 believe Richard indicated that there were some
20 calculations, especially in the intersection analysis.
21 But he just indicated that it was their opinion, or the
22 lead agency's opinion, that those were not real concrete
23 numbers, they were sort of estimates on what it might be.

24 It's staff's view that this permit issued -- or
25 proposed to be issued by the LEA would not have any

1 condition in it that would allow the LEA to enforce any
2 traffic limit at the site. It does not prevent them from
3 taking action through the state minimum standards, which
4 indicates that if there are issues with traffic flow
5 within the site or stacking of vehicles outside the site,
6 the LEA can take action relative to that. But there's
7 nothing in this permit that would allow the LEA to address
8 the site.

9 COMMITTEE MEMBER PEACE: On the agenda item where
10 it says they will never -- they will never exceed 1,484
11 vehicles per day, is that stated anywhere other than in
12 this agenda item?

13 PERMITTING & INSPECTION BRANCH MANAGER de BIE:
14 It's staff's opinion that the document that supports this
15 permit had that language, that understanding in it. So
16 staff is reporting that as our understanding.

17 COMMITTEE MEMBER PEACE: And that document is the
18 mitigated dec?

19 PERMITTING & INSPECTION BRANCH MANAGER de BIE:
20 Correct. So the information in staff's view is available.
21 The LEA seems to have a different opinion of what that
22 number means.

23 COMMITTEE MEMBER PEACE: Well, if we're under the
24 opinion that it says that the traffic should never exceed
25 1,484 vehicles per day, I think I would feel a lot more

1 comfortable if you said that in the permit.

2 I mean, would you object to putting that in the
3 permit under "traffic," where it says -- where you would
4 say, "The traffic will never exceed 1,484 vehicles per
5 day"?

6 That's in your mitigated neg dec. It shouldn't be
7 a problem; right?

8 MR. ARCHDEACON: The way my supervisor explained
9 it to me was, he thought that was more or less an
10 approximate number. If we all felt that it was necessary
11 to put that in the permit, then I guess that's something
12 we could do.

13 COMMITTEE MEMBER PEACE: Well, personally I would
14 like to see that, because every one of our permits -- I
15 think we've only seen one in the years I've been here
16 where it didn't have the proposed permitted traffic volume
17 actually in the permit.

18 I would like to see it kind of be the same and be
19 able just to look at it and say, okay, we know we're never
20 going to go over 1,484 vehicles per day because that's
21 what's in the mitigated neg dec.

22 So I don't see why that would be a problem.

23 MR. ARCHDEACON: Again, I'm trying to recreate
24 some of our conversations.

25 I think one of his concerns was if the -- right

1 now, they do utilize a lot of large vehicles that carry
2 concrete and that type of thing. And if some of the
3 haulers in the future were to shift to a smaller truck for
4 efficiency reasons, then this number of vehicles would
5 increase --

6 COMMITTEE MEMBER PEACE: Then it would be 1484
7 vehicle equivalents or something. A lot of permits do
8 have that provision in there.

9 MR. ARCHDEACON: Vehicle equivalent rather than
10 actual number of vehicles?

11 COMMITTEE MEMBER PEACE: Yeah.

12 MR. ARCHDEACON: Okay.

13 CHAIRPERSON MULÉ: I think that -- I would like to
14 hear from the operator to make sure that they are
15 comfortable with what you're asking for.

16 So if you would come forward and please state your
17 name for the record.

18 MR. LINEBERRY: Good morning. My name is Paul
19 Lineberry. I'm the engineer for Zanker Road Resource
20 Management Limited.

21 I was involved with all of the CEQA work that was
22 done on this, as part of the city permitting. What's
23 different about our site than most every other landfill --
24 we're mostly a recycling facility and we encourage our
25 customers to bring in, you know, cleaner materials and

1 they get a better price.

2 If they bring in yard waste, for example, that
3 material might only weigh a couple, 300 pounds per cubic
4 yard. If they bring in concrete rubble, that material
5 might weigh over a ton per cubic yard. So it was a
6 struggle to come up with a traffic flow to represent sort
7 of the operation that we have at our facility.

8 The traffic engineers that did the CEQA work for
9 us wanted to understand the intersection impacts. And
10 that's really a function of not over a day but, you know,
11 a couple of hours in the morning, when rush hour traffic's
12 happening in the morning, and a couple of hours in the
13 afternoon that the flow of traffic into the site is
14 potentially impacted adversely by our operation.

15 What's interesting about our facility, again, is
16 our customers are in the business of hauling, you know,
17 doing demolition jobs and they don't want their people
18 parked, you know, driving during the busy hours of the day
19 either. So the bulk of our flow is, you know, in between
20 that -- those rush hours. That's where we get the most of
21 our loads.

22 So the 1484 was an approximation of the number of
23 vehicles coming into the site, including during these peak
24 hours. It includes, you know, the employees in and out.
25 It includes, you know, what we thought was service

1 vehicles and everything. And it's very awkward from a
2 realtime standpoint to measure the flow of vehicles into
3 the site, totally. Now, the tonnage was a very realtime
4 measurement that we could use. And the few violations
5 that we've had in the past have come from going over our
6 tonnage.

7 Our facility is very much in demand, and we get a
8 lot of loads coming in, and it's very easy to kind of go
9 over the tonnage when you have the computers go down for a
10 few minutes and all of a sudden you're at the end of the
11 day, you're doing your tickets and you realize you went
12 over three tons and we get a violation.

13 So when we're working with the LEA on traffic flow
14 numbers, we try to be reasonable and they try to be
15 reasonable back, because we're going to have variations
16 during the season, during the construction season versus
17 the leaf season and everything else.

18 So the goal was to try to focus on tonnage, which
19 is a realtime number, and give us some flexibility with
20 our operations.

21 COMMITTEE MEMBER PEACE: Well, I understand your
22 concern with the variation in the seasons and the traffic
23 flow warning, but every facility has those problems.
24 You're not any different than any of the other facilities
25 in terms of problems you encounter.

1 So I just don't understand why you --

2 STAFF COUNSEL LEVINE: I don't know if I can say
3 that every facility -- because I don't know. I know, our
4 operation we've got 30 different waste stream types coming
5 in. I don't think there's very many facilities that
6 have -- they're dealing with more of a standard kind of
7 material coming in. We get yard waste and we get
8 concrete. Very different.

9 How do you track the number of vehicles coming in?
10 It's seasonal thing too. It's awkward.

11 CHAIRPERSON MULÉ: Your traffic flow is dependent
12 upon the type of material you're bringing in, seasonal
13 differences, etc., etc.

14 STAFF COUNSEL LEVINE: Seasons, yes. Absolutely.

15 CHAIRPERSON MULÉ: So let me ask you, that 1484,
16 that what you see as the maximum, the high end, or --

17 MR. LINEBERRY: That was an estimation that I came
18 up with, using where we were getting about 1300 tons per
19 day of material at our site, which we're permitted to do
20 now, and then basically doubling our volumes. That's how
21 we went from 13 to 26, so it seemed reasonable to me to
22 use the 1300-ton day and then double the volumes.

23 CHAIRPERSON MULÉ: Thank you.

24 COMMITTEE MEMBER WIGGINS: Well, with the traffic
25 issue, why don't you come up with something like 1500 or

1 something like that so that you're safe?

2 STAFF COUNSEL LEVINE: The awkwardness, again,
3 with that is if it's the fall when we're getting a lot of
4 yard waste, its weight is 300 pounds per cubic yard, you
5 might only -- for that number of vehicles, we might only
6 get, you know, half the volume of materials that we're
7 potentially capable of handling.

8 COMMITTEE MEMBER WIGGINS: Well, it says here,
9 "will never exceed 1484 vehicles per day."

10 Well, "never exceed" is a pretty strong statement.

11 STAFF COUNSEL LEVINE: I have not seen the
12 language that you're reading from. That's a staff report,
13 I believe.

14 COMMITTEE MEMBER WIGGINS: Yes.

15 STAFF COUNSEL LEVINE: Yes. I have not seen that.
16 I know that number is in our CEQA work too, so I know
17 where that number comes from. But I've not seen that
18 language.

19 COMMITTEE MEMBER PEACE: It's in our staff report
20 you said you've seen it in the CEQA document. To me, I
21 think it would be need to be part of this permit.

22 MR. LINEBERRY: If it was a requirement that it be
23 in the permit, I think the question would become, how do
24 we track that? I mean, how do we manage that count?

25 CHAIRPERSON MULÉ: Mark, do you want to address

1 that?

2 PERMITTING & INSPECTION BRANCH MANAGER de BIE:

3 I'm not sure what the concern is. Almost every facility
4 out there that has some limit relative to traffic is able
5 to account for the traffic flow through their sites. So
6 I'm not sure if that's the question, or if there's
7 something else that's associated with it. But, you know,
8 there are a lot of models and tools out there to count
9 traffic.

10 CHAIRPERSON MULÉ: Right.

11 COMMITTEE MEMBER PEACE: To me, there's ways to do
12 that. And if your CEQA document says that you will never
13 go over 1484 --

14 MR. LINEBERRY: If it's a question of how many
15 tickets that we would receive and we could never process
16 more than 1484 tickets in a day, that's something we could
17 very easily manage and include into our permit. But if
18 we're talking about traffic flow, then somebody has to be
19 there when the employees come in, somebody has to be there
20 when they go for lunch, somebody has to be there when the
21 post office guy shows up, and when the water delivery
22 truck comes in. Those are all things that are part of the
23 traffic flow studies.

24 CHAIRPERSON MULÉ: So you should have that
25 information, though.

1 MR. LINEBERRY: There was -- yes.

2 CHAIRPERSON MULÉ: Right?

3 You should know approximately how many trips
4 include your employees, include the mailman, include the
5 water trucks, etc., etc. So from then you could determine
6 how many actual truck trips or include material --
7 incoming material into your facility; correct?

8 STAFF COUNSEL LEVINE: There was approximations,
9 yes. We could go into -- again, what really -- if you
10 want to go to the traffic study, what would be required is
11 if between, like, certain hours of the day there's a
12 volume of traffic into the site.

13 COMMITTEE MEMBER PEACE: We're just talking about
14 vehicles per day, not any time of day. Just vehicles per
15 day, or vehicle equivalents per day.

16 MR. LINEBERRY: If it's being incorporated -- but
17 it was my understanding that not all facilities have
18 traffic numbers tied to their permits. And this was --

19 COMMITTEE MEMBER PEACE: Every one does. I think
20 there's only one --

21 CHAIRPERSON MULÉ: I don't know that every one
22 does.

23 COMMITTEE MEMBER PEACE: I think I've only seen
24 one other one that didn't.

25 I just think we come up with this number here,

1 wherever this number came from, this 1484, if that came
2 from the CEQA documents or the mitigated neg dec, then it
3 shouldn't be such a problem. You could just put it right
4 into the permit, so it's easy to see.

5 CHAIRPERSON MULÉ: We do have someone else that
6 wishes to address the Committee.

7 Mr. Edgar, would you please state your name for
8 the record.

9 MR. EDGAR: My name is Evan Edgar. I'm regulatory
10 affairs for Zanker Road. I've been on the site for many
11 years and actually lived out there. I was working on an
12 RFP for many years, so I've been very familiar with the
13 traffic count.

14 A lot of stuff doesn't go over scales in regards
15 to employees and vendors and the salesmen, so to track
16 that off-peak or during late night, early morning, you
17 don't run across the scales because it doesn't bring trash
18 in. So those are the traffic counts that we don't have in
19 our computer model or in our scale model because they
20 don't go across the scale.

21 I've been involved with a lot of the permits since
22 '93 from the Waste Board, and every permit has a traffic.
23 Mr. Levenson fully explained how the LEA puts up permits.
24 At their option, they can add traffic. And usually we
25 don't -- typically negotiate permit conditions and they

1 come forth and in this case, the LEA made a strong point.
2 The supervisor -- I work with Dennis Ferrier with many
3 permits in San Jose, and in this case a traffic study with
4 CEQA was not never exceeded. That was a staff -- Waste
5 Board staff interpretation of what was in CEQA. It's not
6 exact language from CEQA. CEQA has an approximation of
7 typical seasonalities of typical aspects. So that number
8 is a typical intersection of Zanker Road and 137. So how
9 that blend works there and most of the traffic is off
10 peak. You know they don't go peak hour. So based upon
11 the level of service at the intersection, off peak, the
12 CEQA study was adequate in the sense of an approximation
13 blend. So I believe staff extrapolated -- a never exceed
14 can be a peak extreme. It's not the case in CEQA. And
15 the LEA put up a permit which we could manage, which we
16 accepted, and we would like to keep the permitted traffic
17 as it is in the permit, after months of discussion and
18 negotiations at the local level, with local CEQA.

19 Thank you.

20 COMMITTEE MEMBER PEACE: Evan, you've been
21 involved in a lot of different facilities, and I can't --
22 most of them have a proposed traffic limit. Why is this
23 facility so much different than all of the other ones that
24 you deal with.

25 MR. EDGAR: Just recently, I believe Larry Sweech

1 (phonetic) from RCRC had made a case that throughout the
2 regional rural areas, that traffic counts are not being
3 put in those studies. So there have been trends at the
4 Waste Board over the last ten years to add traffic as a
5 tool. And as for CEQA, that's been some of the trend.
6 So, yes, there has been a trend over that. Earlier
7 permits from the early -- mid '90s did not have traffic.
8 It was tons, tons, tons. And over the years, traffic has
9 been added where the LEA feels it appropriate based upon
10 goods and movement in that intersection, becoming a
11 problem with the increase of traffic problems in state of
12 California. So yes, because traffic has increased in the
13 state of California and because of the fact that the LEA
14 found it needed to put it in via the traffic study as a
15 CEQA, that has been a trend. But it's not mandatory.

16 COMMITTEE MEMBER PEACE: So how do we come up with
17 that 1484 vehicles again? Where did that come from?

18 MR. EDGAR: It was a traffic patterns on the
19 different seasonalities of what would be expected. Zanker
20 Road gets about 80 to 90 percent recovery on green waste,
21 dry wall, all these different things from different peaks
22 and different seasonalities from different types of
23 traffic flows. So they just took what would be expected.
24 There are up to 2,600 peak traffic. That would be the
25 expected approximate traffic load at Zanker-137 Road, and

1 that would be expected. And local CEQA says that's
2 adequate to describe that typical blend of traffic at that
3 intersection, where the level of service was not impacted.

4 CHAIRPERSON MULÉ: Board Member Wiggins?

5 COMMITTEE MEMBER WIGGINS: The negative dec 1484
6 vehicles per day?

7 MR. EDGAR: As an approximation, not as a peak --

8 COMMITTEE MEMBER WIGGINS: This says, "Will never
9 exceed 1484 vehicles per day." If the negative dec has
10 it, I don't know why it can't be in the permit.

11 MR. EDGAR: I believe that your staff put down
12 "will never exceed," and we didn't see the staff report
13 until just recently. And the CEQA document had an
14 approximation of typical traffic flows per season.

15 CHAIRPERSON MULÉ: Mark, do you want to address
16 that?

17 PERMITTING & INSPECTION BRANCH MANAGER de BIE: If
18 I could suggest that I think we're getting tripped up on
19 staff language in the staff report that characterizes this
20 number as a definitive maximum peak. I think staff needs
21 to go back and really look at that original document and
22 to better advise the Board on where it comes from. We've
23 heard testimony from the operator that basically it's a
24 calculated number based on half the tonnage. So in their
25 mind, it certainly sounds more like an approximation.

1 So if -- I think to better advise the Committee
2 and the Board, staff would need to go back and look at the
3 document and make a determination of how solid that number
4 really is.

5 In past experience, we have found that numbers
6 utilized in traffic studies vary greatly. Some just do
7 guesstimates. Some have -- are based on very solid
8 calculations. This one may be somewhere in the middle.

9 CHAIRPERSON MULÉ: Okay.

10 Board Member Wiggins?

11 COMMITTEE MEMBER WIGGINS: I can't tell from the
12 map, but it looks like this is an isolated area; is it?

13 CHAIRPERSON MULÉ: Yes. I've been to this site.
14 I was there about a year or so ago. I've been out to the
15 site, so I can understand where the operator is coming
16 from in terms of looking at traffic flow, because it's not
17 in the -- in an urban area.

18 COMMITTEE MEMBER WIGGINS: Well, I mean, so that
19 has a lot to do with the vehicles per day not having a
20 negative impact on neighbors.

21 MR. EDGAR: The level of service where it's at --
22 137 which is very busy. So 137 is a very busy
23 thoroughfare, so the level of service there from Zanker
24 Road going northbound, and that is where that traffic
25 problem is at peak hour. But this is an off-peak

1 facility, so that's why the level of service is okay there
2 for off-peak traveling.

3 CHAIRPERSON MULÉ: Right. Because most of the
4 vehicles are coming into the facility at off-peak hours.
5 That's what they are trying to explain to us.

6 COMMITTEE MEMBER PEACE: Does it say anything then
7 in the environmental document that all the vehicles would
8 be at off-peak hours?

9 MR. EDGAR: Not all of them, but most of them.

10 COMMITTEE MEMBER PEACE: Not all, but a certain
11 percentage.

12 MR. EDGAR: Correct.

13 COMMITTEE MEMBER PEACE: So it does say that?

14 MR. EDGAR: Correct. And the traffic profile is
15 such that the traffic patterns are off-peak.

16 COMMITTEE MEMBER PEACE: You said staff can take a
17 look at that and they will give us a --

18 PERMITTING & INSPECTION BRANCH MANAGER de BIE: We
19 can take a look at that again.

20 Typically there would be some threshold described
21 in the document that indicates when a significant impact
22 would be occurring relative to the intersection. And we
23 can look at this document, determine if that number is
24 expressed, because that's a hard number. That threshold
25 number is pretty hard, when an intersection moves from one

1 level of service to another.

2 So that may be something that we need to look at
3 in terms of the number that we're quoting in the staff
4 report relative to the threshold and be able to advise the
5 Committee and the Board on the relationship between what
6 was analyzed and the actual potential environmental
7 impact.

8 COMMITTEE MEMBER PEACE: Okay. And I guess it
9 might be out in a rural area now, but the rate that these
10 communities are growing in this state, it might not be
11 tomorrow.

12 So I'd like to wait and see what staff has to --

13 CHAIRPERSON MULÉ: Okay. What we'll do then is
14 we'll wait to hear from staff on this.

15 Pardon me?

16 COMMITTEE MEMBER WIGGINS: Excuse me.

17 So we're going to delay the permit because of
18 this?

19 DEPUTY DIRECTOR LEVENSON: We will look at this
20 information. We will go back to the environmental
21 documents to make sure that we've either characterized the
22 information and that it is correctly reported in the staff
23 report, or report back to you next week as to what it does
24 say, and then go from there at the Board meeting.

25 CHAIRPERSON MULÉ: Unless Board Member Wiggins,

1 you wish to move this forward.

2 COMMITTEE MEMBER WIGGINS: Well, it depends on the
3 rest of the Board.

4 Yeah, I'm ready to.

5 CHAIRPERSON MULÉ: I'm ready to move it forward as
6 well. So somebody needs to make a motion here.

7 COMMITTEE MEMBER WIGGINS: Okay. I move
8 acceptance of Resolution 2006-74.

9 CHAIRPERSON MULÉ: Do I have a second?

10 I will second that.

11 We have a motion by Board Member Wiggins, seconded
12 by Board Member Mulé, to move Resolution 2006-74.

13 Donnell, please call the roll.

14 SECRETARY DUCLO: Members Peace?

15 COMMITTEE MEMBER PEACE: No.

16 SECRETARY DUCLO: Wiggins?

17 COMMITTEE MEMBER WIGGINS: Aye.

18 SECRETARY DUCLO: Chair Mulé?

19 CHAIRPERSON MULÉ: Aye.

20 So we've got -- We can put on consent? Or we'll
21 wait and get the information back from staff.

22 Mark, do you want the --

23 EXECUTIVE DIRECTOR LEARY: It just goes to the
24 Board with a 2-1 recommendation, but it wouldn't be on
25 consent.

1 CHAIRPERSON MULÉ: Okay. Thank you very much for
2 that clarification.

3 Staff will come back to the full Board with the
4 information requested by Board Member Peace.

5 Anything else, Howard?

6 DEPUTY DIRECTOR LEVENSON: Just to indicate that
7 if we do find something different in the record from
8 what's different from what we stated in the agenda, we
9 will provide a revised agenda item, prior to the Board
10 meeting, to reflect that information.

11 CHAIRPERSON MULÉ: Okay. Correct. That would be
12 helpful. Okay. Very good.

13 Thank you very much.

14 We have our next item, which is Committee Item F,
15 Board item 20.

16 Howard?

17 DEPUTY DIRECTOR LEVENSON: Item 20 or Item F is
18 Consideration Of A New Full Solid Waste Facilities Permit
19 (Transfer/Processing Station) for American Waste
20 Industries, City of Los Angeles.

21 Rather than repeating the staff presentation that
22 you heard last month, I would like to provide an
23 introduction and context for the various pieces of
24 correspondence that have come through in the last three or
25 four days, and then open it up to public comment after

1 that, if it's okay with the committee?

2 CHAIRPERSON MULÉ: That's fine with me. Board
3 Member Peace, are you okay with that?

4 Thank you.

5 Okay. Proceed, Howard.

6 DEPUTY DIRECTOR LEVENSON: Okay. As you know,
7 after concerns were expressed by members of the public
8 regarding the issues of a public hearing and the
9 environmental documents at last month's meeting, the
10 operator requested a 30-day continuance of this process.

11 Since then, and particularly in the last few days,
12 there's been a flurry of communications on behalf of the
13 International Brotherhood of Teamsters on this proposed
14 permit.

15 I would like to summarize the main points in these
16 communications and briefly indicate staff's position on
17 them so you would have a fuller context for the item. I'm
18 sure that we'll return to these topics in more detail,
19 after hearing from members of the public who wish to
20 testify.

21 These letters raise what I conclude are four main
22 points. So let me go through those in order and frame
23 them for you.

24 First, that the Board should object to the
25 issuance of the proposed permit, because the LEA should

1 have held a public hearing before submitting the proposed
2 permit to the Board.

3 As we discussed in April and certainly can discuss
4 more in more detail later, CIWMB staff disagree that a
5 public hearing is required for this proposed permit. The
6 attorneys on behalf of the Teamsters contend that this
7 should be a new construction, demolition, and inert debris
8 processing permit, which under our regulations would
9 indeed require that the LEA hold a public hearing.

10 However, we disagree with this. The facility
11 takes in various materials and the operator has the choice
12 of which permit is appropriate, as indicated in
13 Mr. Bledsoe's April 17th letter.

14 The applicant can also choose to change their
15 operations to qualify for another type of permit. The
16 application that was provided to the LEA describes a
17 facility that requires a full transfer of processing
18 station permit. And since that would be a new permit,
19 we've concluded that the provisions of AB 1497 do not
20 apply.

21 Second issue is that the Board should object
22 because of the history of past violations at the site.

23 Again, as discussed in April, and in Mr. Bledsoe's
24 April 17th letter, we disagree that the concurrence of
25 past state minimum standard violations is a basis for the

1 board to object to the proposed permit. We've inspected
2 the site and examined the transfer processing report, and
3 we have found that the facility is currently in compliance
4 with state minimum standards, and as designed should be
5 able to operate in compliance.

6 Third, the Board should object because the LEA
7 failed to consult with Board staff prior to preparing a
8 mitigated negative declaration, or MND, and because an
9 appeal of the LEA's approval of the MND has been filed.

10 Regarding the issue of failing to consult with us,
11 it is true that the LEA did not directly consult with us
12 prior to preparing the mitigated negative declaration.
13 However, the LEA did discuss with us whether the 1999
14 negative declaration was sufficient. And we indicated
15 that additional documentation was needed. The mitigated
16 negative declaration was then prepared and we commented on
17 the draft version of it. In our view, this constituted
18 input to the LEA.

19 As pointed out -- well, staff believes that the
20 LEA adequately communicated with them -- with us during
21 the development of the initial study and the document.

22 Regarding the appeal to the local hearing panel,
23 initially this was an appeal to the L.A. City Council
24 regarding the LEA's approval of the mitigated negative
25 declaration.

1 This has been the subject of much discussion back
2 and forth between various attorneys representing the
3 different parties. Both the L.A. City attorney and the
4 Board's legal office are of the opinion that the provision
5 and CEQA, which provides for reconsideration of
6 environmental documents, does not apply to the LEA, which
7 is not the type of local agency specified in CEQA.

8 I'm sure that our attorneys can provide further
9 information on this point.

10 More recently, on May 5th, the Teamsters filed an
11 appeal pursuant to Public Resources Code 44307 and 44310,
12 requesting that a public hearing be held before the local
13 hearing panel regarding two issues: the LEA's failure to
14 hold a public hearing and the need to prepare an
15 environmental impact report, rather than a mitigated
16 negative declaration.

17 I will defer further discussion at this point to
18 the attorneys in terms of what impact it would have on our
19 deliberations.

20 Lastly, there's the issue of whether there's
21 substantial new evidence that the project may have a
22 significant impact on the environment, thus requiring
23 additional CEQA documentation. As Mr. Bledsoe's
24 May 5th letter indicated, a subsequent environmental
25 impact report or negative declaration may be required

1 where quote, "new information of substantial importance
2 becomes known when such events lead to environmental
3 effects that have not been adequately considered," closed
4 quote.

5 The agenda item prepared by staff recognizes this
6 possibility, near the bottom of Page 8. In particular, we
7 stated in the agenda item that "if the Board is provided
8 information relative to the criteria in Title 14,
9 California Code of Regulations, Section 15162, Board staff
10 would recommend that the Board first review the
11 information, prior to making a determination on the
12 adequacy of the CEQA record. If, however, the Board does
13 not receive additional information, then Board staff would
14 recommend that the mitigated negative declaration and
15 transfer processing report cited above is adequate for the
16 Board's -- in general, for the Board's purposes."

17 Now, Ms. Lye's May 3rd and May 5th letters to the
18 Board do raise concerns about environmental impacts,
19 particularly concerning air quality impacts.

20 For the record, her letters also contend, based on
21 the types of materials the facility would process, that
22 the mitigated negative declaration does not cover 400 tons
23 per day of material that would not be processed.

24 Staff is discussing this information with the LEA,
25 and we also wish to hear if any new substantive

1 information is provided either today or at tomorrow's
2 meeting, that is being held by the LEA, down in Los
3 Angeles, or at any other time prior to the Board meeting.

4 We therefore suggest that we be allowed to examine
5 this new information, which we just received, and have to
6 go back in the documents and check, to see whether there's
7 any actual new information, that we look at this over the
8 next week, prior to making a final recommendation to the
9 full Board.

10 With that, I will stop my presentation and we
11 would be happy to answer any questions.

12 I know that the LEA is here; the operator is here;
13 and Ms. Lye, representing the Teamsters, is also here.

14 CHAIRPERSON MULE: Thank you, Howard. I
15 appreciate your summarizing the main points of all these
16 letters that we received just late last week.

17 What I would like to do now, though, is have our
18 two speakers here that have requested to speak, have you
19 come up and speak.

20 And then we will take questions from the
21 Committee, and then we'll make a recommendation back to
22 you, Howard, and your staff.

23 So first I would like to call Linda Lye.

24 MS. LYE: Good morning. Thank you.

25 On behalf of the International Brotherhood of

1 Teamsters, we are participating because we have members
2 who live and work in the area and are heavily impacted by
3 what we believe to be the significant environmental
4 impacts of the facility.

5 We have been working closely with -- I'm sure you
6 will recall from our last hearing Exiquio Ruiz, who was
7 member of the Parishioners of Holy Rosaries and so
8 Ms. Depres, who's president of the East Valley Coalition.
9 So both of those groups are members of one LEA, so we've
10 been working with the community groups in Sun Valley. And
11 it's a heavily burdened community, low to moderate income,
12 heavily Latino, a huge number of environmental justice
13 issues, a huge number of solid waste facilities permits.

14 The staff mentioned that I'm here today.
15 Unfortunately, Mr. Ruiz and Ms. Depres are not here today,
16 because this hearing is being held halfway across the
17 State from where they live and work.

18 Our main concern in this case has been about
19 getting fair process and appropriate environmental review.
20 And we've had neither in this case, unfortunately. As a
21 threshold matter, we want to emphasize the history of the
22 operator's violation of state minimum standards: air
23 quality violations, other violations. That emphasizes the
24 need in this case for transparency, a fair process, and an
25 opportunity for the community to have meaningful input

1 into this permitting process. And they have not had that
2 to date.

3 I want to touch on the public hearing issue. Mr.
4 Levenson commented on why the staff's position is that the
5 CDI regulations do not apply. So there's no dispute if
6 the CDI regulations apply, a public hearing would be
7 required.

8 Frankly, we don't understand the rationale for why
9 the CDI regs don't apply. The CDI regs apply as long as
10 the facility accepts more than 175 tons per day of CDI
11 debris. And so the facility -- the argument that the
12 facility takes in variable materials, well, if you look at
13 the public notice for the informational meeting that's to
14 be held tomorrow, the LEA has recently received a permit
15 application from American Waste Industries to be
16 permitted, to accept a total of 1500 tons per day, which
17 consists of 400 tons per day of municipal solid waste, 800
18 tons per day of construction and demolition debris and
19 then 300 tons of something else. So this is what is being
20 represented to the public.

21 If you look at the transfer processing report,
22 which was submitted as part of the permit application, it
23 clearly identifies 800 tons per day as the capacity of
24 CDI, as the facility's capacity. The staff report also
25 indicates that the TPR was incorporated into the

1 environmental documentation as the defining documents for
2 this project.

3 So if the project is not actually conducted in
4 accordance with the TPR, which specifies 800 tons per day,
5 then you have a CEQA problem because the public and your
6 Board have been mislead about what the project is actually
7 going to entail: how much waste and of what kinds.

8 So for these reasons, we believe that the facility
9 is a CDI facility. It clearly is going to accept more
10 than 175 tons per day of CDI. That's the stated intent.
11 And so you know, we believe those regulations apply.

12 There is going to be an informational hearing
13 tomorrow. That, however, is certainly not enough to
14 satisfy what is actually the public hearing requirement.
15 The regulation requires a public hearing by the LEA,
16 before the permit is submitted to the Board. Now, the
17 purpose of having a public hearing is so that the
18 community can give -- have a voice, give input, share its
19 views and concerns of the LEA and help the LEA make its
20 permitting decision. Help it decide whether to submit a
21 proposed permit to the Board at all. And if so, what
22 conditions to include in the permit in order to protect
23 the community.

24 Now, if you hold a, quote, "informational meeting"
25 after the P&E Committee here has already heard this

1 matter, a month after the LEA has already submitted the
2 proposed permit to the Board, it's clearly a pointless
3 hearing. The LEA, given the timing of it, submitting the
4 proposed permit, i.e. making its decision on the permit,
5 and then telling the community, "Okay. Come on, we'll
6 listen to your views." The message sent to the community
7 is, "Your views don't matter. They are not going to
8 affect my permitting decision at all because I've already
9 made up my mind." And that frankly is an insult to the
10 community.

11 On the CEQA issue, yes, we have filed an appeal to
12 the city council of the LEA's decision to prove the MND.
13 CEQA provides an appeal provision where a non-elected
14 decision-making body of a local lead agency approves an
15 MND, that approval may be appealed to the agency's elected
16 decision-making body. We've invoked that and appealed the
17 LEA action, taken pursuant to CEQA, to approve MND, to the
18 L.A. City Council.

19 As we understand it, we know the LEA, on Wednesday
20 of last week, wrote a letter to the city council, saying
21 we do not have an elected decision-making body.
22 Therefore, city council, you cannot consider our appeal.
23 I consider that to be the position of the Waste Board
24 staff. I think the L.A. City Attorney's -- we've
25 communicated with the L.A. City Attorney staff who have,

1 at this juncture, tentatively agreed with that position,
2 although it's my understanding that there's no final -- I
3 mean, that they are still open to be being convinced on
4 this issue. And I certainly have not seen anything
5 written, no written document from the L.A. City Attorney's
6 Office committing themselves to that position. So I don't
7 know that it's a fair characterization to say that that is
8 the firm position of the L.A. City Attorneys Office. I
9 think that's the position they've taken thus far. But in
10 my conversation with them last week, the staff certainly
11 indicated that this issue is still open on this issue.

12 It's a remarkable argument to us. The gist of the
13 argument is that the LEA does not have an elected
14 decision-making body. Now, it's interesting for an agency
15 to tell what I think to be its boss, "Oh, actually, you're
16 not my supervisor." But, you know, that will be an issue
17 to be resolved between the city council and the LEA.

18 As a matter of statutory construction, regulatory
19 construction, in case law, I think everything is on our
20 side that there is supervision by the L.A. City Council
21 over the LEA. Again, this is a provision of CEQA, which
22 says that a non-elected decision-making body can be
23 appealed to the agency's elected decision-making body.
24 The Waste Act itself makes clear that the LEA had, quote,
25 "governing body." That's the term used in the statutes,

1 in the regulations. The Waste Act also makes clear that
2 the LEA's governing body in the City Council. Now, if the
3 city council -- the city council has a right to designate
4 the LEA with the Waste Board's concurrence. It has a
5 right to approve the fees and charges imposed by the LEA.
6 It designates the hearing procedures set up by the LEA.
7 It has a right to withdraw the designation of the LEA.

8 Given all of that and the repeated references in
9 the statutes in the regulations to the LEA's governing
10 body, it's -- I don't understand the argument that the LEA
11 somehow just is not subject to the supervision and
12 oversight of the Los Angeles City Council.

13 Now, in cases where the Waste Board itself is the
14 EA, because the local governing body has not designated a
15 local enforcement agency, then I think the argument makes
16 sense. If there is no local enforcement agency, then the
17 Waste Board itself is the EA, and it would make no sense
18 to appeal a CEQA issue to the city council in that
19 circumstance. In that circumstance is where the local
20 entity has not designated an LEA. The argument makes
21 sense. It does not make sense in the context here, where
22 the Los Angeles City Council has clearly designated the
23 Los Angeles Environmental Affairs Department as the LEA.

24 So we think the statutory language and regulations
25 are clearly in our favor. There is no case deciding this

1 issue, so if even if there were a ambiguity, it makes
2 sense to construe the statute the way we've been doing it
3 because, one, the Waste Act itself -- the intent of the
4 Waste Act was to share waste management responsibilities
5 between the state and local governments.

6 It does not make sense to construe the Waste Act
7 to oust the city council of any right to have review over
8 its LEAs' decisions, taken pursuant to CEQA.

9 Also it would make no sense to construe the
10 statute in a way that forces CEQA challenges to
11 litigation. The Legislature enacted 21151c. The
12 Legislative History states that the intent was to expand
13 the local process for allowing appeals of any certified
14 environmental review document.

15 So given that legislative history under CEQA, the
16 legislative intent of the Waste Act to share waste
17 management responsibilities with the state and local
18 governments, there's no rationale for creating an
19 exemption to the normal CEQA appeal process to the L.A
20 city council and then forcing CEQA challenges straight
21 into court.

22 Because we think our appeal to the city council is
23 proper, there is no certified environmental document for
24 this project. If -- the initial MND was prepared in
25 December of 2004 -- is that right? -- so had they moved to

1 take action on this sooner, we could have resolved this a
2 long time ago. But there was a great inaction on the part
3 of the LEA and the operator to get this MND actually
4 finally adopted. It was prepared well in advance at the
5 time it was actually approved; it was only approved on the
6 evening of the hearing of the last P&E Committee hearing,
7 even though prepared over a year beforehand.

8 Now, if they had done their due diligence and
9 approved it a long time ago, then we could have been able
10 to appeal this -- or we would have appealed back then and
11 this would all be resolved.

12 So in terms of the -- we have, as Mr. Levenson
13 pointed out, on Friday, we did file an appeal as well
14 under the Waste Act provisions before the LEA hearing
15 panel on the public hearing issue and the failure to
16 document an EIR. We do think that the proper procedure
17 for appealing the EIR issue is to go to the L.A. City
18 Council and we're going to stick to that. But to err on
19 the side of caution and to preserve our options, we filed
20 an appeal before the LEA hearing panel. I'm not sure how
21 exactly that affects the timelines of this. In this
22 proceeding, the Board does have to -- we think that that's
23 irrelevant to the Board's consideration because you have
24 to concur objectively within 60 days or be deemed to have
25 concurred by default. So we don't think that the LEA

1 hearing panel would likely not be able to act on our
2 appeal before you have to act. So we don't think that's
3 relevant to your considerations.

4 Our position is that basically the Board needs to
5 object before the 60 days runs. Then AWI can submit a new
6 permit, and the process can begin again, but this time
7 with fairness and transparency and the proper public
8 hearing, which is required.

9 We did also submit a rather lengthy document on
10 the substantial environmental impacts. And I would like
11 to just touch on those briefly. As the MND indicates,
12 this facility is expanding from 400 to 1500 tons per day.
13 This is a significant fourfold expansion of the project,
14 and this constitutes a change in the project, which should
15 be reviewed through a full EIR. There's significant new
16 information and change in circumstances from any prior
17 approval. For instance, the operator has committed
18 repeated violations of state minimum standards and air
19 quality violations. This is significant for CEQA purposes
20 because mitigation measures can only be of any utility if
21 they are actually implemented. If the operator has a
22 track record of failing to abide by required conditions,
23 then there's substantial evidence that any mitigation
24 measures in the MND are not likely to be implemented and
25 therefore the project will have significant adverse

1 impacts.

2 Since the time of prior approval, the South Coast
3 Air Quality Management District has issued a landmark
4 study as a result of which we now know that 70 percent of
5 the total cancer risk in the South Coast Air Basin is
6 attributable to diesel particulate emissions. On-road
7 diesel engines, i.e. the trash trucks that come and haul
8 thousands of tons of waste to the facility each day are
9 among the primary sources of diesel particulate emissions.
10 There's no clean fuel requirements in this permit.

11 This facility will result in 267 truck trips per
12 day not including employee vehicles trips, but there's no
13 vehicle trip requirements. In addition to the PM10, the
14 particulate matter problem, there's also a NOx issue. The
15 facility will likely produce 135.5 pounds per day of NOx,
16 which is far above the South Coast Air Quality Management
17 District's 55-pound per day threshold of significance. NOx
18 is a precursor to ozone, and is therefore critical to the
19 attainment of healthful air quality in the South Coast Air
20 Basin.

21 Environmental justice issues are significant. An
22 EIR has been prepared for the Bradley Transfer Station,
23 which is located less than two blocks away.

24 Now, the Bradley EIR contains a lengthy discussion
25 of EJ issues, but no such analysis has been prepared for

1 this facility which will obviously impact exactly the same
2 community.

3 Cumulative impacts. These are critical and have
4 to be studied. If all of the currently proposed waste
5 facilities are approved, Sun Valley will receive up to
6 17,200 tons of waste per day, involving more than 3,000
7 additional truck trips.

8 There are five freeways nearby. The I-5 freeway
9 is a major truck route. That includes solid waste
10 disposal trucks. Freeways are associated with high rates
11 of childhood asthma from the diesel fumes. When the South
12 Coast AQMD conducted air quality sampling in an analysis
13 of Fernangeles School in Sun Valley, in August of 2005, it
14 reported high volumes of particulate matter and noxious
15 gasses associated with truck traffic and around the
16 landfill. The American Waste Facility would add to these,
17 already severe, cumulative impacts. And therefore, for
18 these and the other reasons that we laid out in greater
19 detail on a letter copied to the city council but copied
20 to the Board last week, we think all of this must be
21 studied in an EIR.

22 If the Board approves the permit, the project will
23 go forward without any of the meaningful public input and
24 appropriate environmental review -- appropriate and
25 stringent environmental mitigation measures that are

1 necessary in this case.

2 The Board should therefore object so that AWI can
3 file a new application and the process can start again.
4 But this time a fair, transparent process with appropriate
5 environmental review and meaningful community input.

6 So thank you.

7 If you have any questions, I would be delighted to
8 answer them.

9 CHAIRPERSON MULÉ: We have some questions, and I
10 don't know -- did you want to respond to some of these
11 points that Ms. Lye brought up? Howard and/or Mark?

12 DEPUTY DIRECTOR LEVENSON: Certainly we can at
13 your pleasure, if you would like to have --

14 CHAIRPERSON MULÉ: First we'll hear from Board
15 Member Wiggins.

16 COMMITTEE MEMBER WIGGINS: Could you just clarify,
17 again, where you filed the appeal?

18 MS. LYE: There are several proceedings going on.
19 The permit is currently before you, so we're requesting
20 that you object. We -- on April 4th--

21 COMMITTEE MEMBER WIGGINS: One second --

22 MS. LYE: On April 4th, we filed what's an appeal
23 under CEQA, to the L.A. City Council which we believe has
24 authority -- there's a disagreement over this, but we
25 believe the L.A. City Council has the authority to review

1 the LEA's decision to approve a mitigated negative
2 declaration. That's pursuant to Public Resources Code,
3 Section 21151c.

4 Last Friday we also did file an appeal, under
5 Waste Act Procedures, to the LEA's hearing panel, which
6 authorizes -- Public Resources Code 44307, which
7 authorizes us to challenge the LEA's failure to act as
8 required by law or regulation.

9 We raised the failure to hold a public hearing in
10 accordance with CDI regs, and the failure to require an
11 EIR. That hearing panel probably will not act on our
12 appeal until after the Board's deadline to act on those
13 permits. So we would ask that you not consider that for
14 purposes of your consideration because it's not going to
15 help us.

16 COMMITTEE MEMBER WIGGINS: Thank you.

17 CHAIRPERSON MULÉ: Okay. Howard and Mark, there
18 were several issues that Ms. Lye brought up.

19 One, first, was the type of permit, CDI versus
20 solid waste facilities permit. If you could address that.
21 The second one was the public hearing requirements, and
22 then the CEQA appeal.

23 DEPUTY DIRECTOR LEVENSON: Certainly. And these
24 are exactly the points I made in my introductory remarks.

25 We have concluded that based on the information

1 presented in the proposed permit that a transfer station
2 processing permit is appropriate.

3 It's true that this facility is designed to take
4 800 tons per day of C&D material, but it's also designed
5 to take other material. So it is entirely appropriate, in
6 our view, for the operator to seek a transfer station
7 processing permit.

8 As such, this would be a new permit, and therefore
9 it would not fall under the provisions of AB 1497.

10 Now, we've discussed this many times over the last
11 couple of years. The Board itself has recognized this gap
12 in statute and has directed us to incorporate provisions
13 for public hearings on new permits into our entire
14 regulatory scheme. And this is indeed the subject of the
15 permit implementation regulations that are up for public
16 comment right now, and will be coming back to you for
17 further discussion in probably July or August, to see
18 where we are.

19 So again, I will just repeat that we disagree with
20 Ms. Lye's contention there, and we feel this is an
21 appropriate -- the transfer station processing permit is
22 appropriate and that a public hearing is not absolutely
23 mandated.

24 With respect to the CEQA information and the
25 potential for substantial impacts, that is -- as we

1 pointed out, this is information that we received late
2 last week. It's probably about a hundred pages of
3 information. We need to have time to process that
4 information, go back and compare that with what is in the
5 environmental record and see whether there is
6 significant -- or substantial, new information that
7 suggests there would be significant impacts that weren't
8 analyzed for or couldn't be mitigated.

9 So with your permission, we are seeking this week
10 to go ahead and do that, report back to you, next week, at
11 the full Board meeting.

12 In terms of the appeal process and its impact on
13 us, I will defer that to our legal staff to speak to that.

14 CHAIRPERSON MULE: Thank you, Howard.

15 Michael, do you want to address that?

16 STAFF COUNSEL BLEDSOE: The specific questions --
17 I guess there's actually two appeals that have been filed
18 by the Teamsters. The first being the appeal under CEQA
19 provision to the local elected body and the second to the
20 local hearing panel.

21 I responded to this issue two or so, three weeks
22 ago, in a letter to Ms. Lye. I don't have that letter in
23 front of me, but the bottom line is that the city council
24 simply, in our view, does not have jurisdiction over a
25 CEQA decision by the local enforcement agency when it's

1 acting as a lead agency.

2 It's quite true that the city council in L.A. is
3 considered the governing body for the purposes of
4 designating a local enforcement agency. But no aspect of
5 the LEA's performance, as it carries out the Integrated
6 Waste Management Act, of necessity, carries out CEQA in
7 conjunction with carrying out the Integrated Waste
8 Management Act, is subject to review by the L.A. City
9 Council. So if push comes to shove, we would advise --
10 recommend to the Los Angeles City Council that it does not
11 have the jurisdiction to consider that appeal.

12 The second appeal that has been filed is to the
13 local hearing panel. And there's a bit of confusion, I
14 think, as to precisely how that would affect the Board's
15 decision. Nonetheless, the initial question there has to
16 be answered by the local hearing panel itself: Is it
17 going to accept the appeal that the Teamsters have
18 brought?

19 And I don't know the answer to this question yet.

20 CHAIRPERSON MULÉ: Okay. Thank you.

21 We do have a question from Board Member Wiggins.

22 COMMITTEE MEMBER WIGGINS: So who would be --
23 who's the right body for the appeal to be filed to?

24 STAFF COUNSEL BLEDSOE: On the question of the
25 CEQA whether or not the lead agency, the local enforcement

1 agency adequately complied with CEQA. As I said, there is
2 no appeal under Public Resources Code, 21151c, to the city
3 council, because the city council is not -- doesn't have
4 any jurisdiction over the LEA in carrying out its duties.

5 So in my view, at this point, if a citizen feels
6 that the LEA is failing to comply with CEQA, it needs to
7 follow the judicial procedures that are available for
8 suing a lead agency who makes an erroneous CEQA decision.

9 Likewise, the Waste Board, as responsible agency,
10 if we feel that the LEA has not conducted CEQA properly,
11 we sue the LEA.

12 COMMITTEE MEMBER WIGGINS: So if they are
13 appealing because they think the LEA hasn't done their
14 job, I still don't know who they file to. Where do they
15 file the appeal?

16 STAFF COUNSEL BLEDSOE: Well, there's a
17 disagreement right now as -- on the question of, you know,
18 appealing to the hearing panel, whether the local hearing
19 panel may consider a CEQA -- an appeal on CEQA.

20 COMMITTEE MEMBER WIGGINS: Okay.

21 STAFF COUNSEL BLEDSOE: So we're disagreeing on
22 whether that's available or not. And the point I was
23 trying to make is the Los Angeles hearing panel itself has
24 to answer that question before I think it's appropriate
25 for us to answer that question.

1 COMMITTEE MEMBER WIGGINS: Okay.

2 CHAIRPERSON MULÉ: Okay. Thank you.

3 We do have another speaker first. We have Hutch
4 Der Stepanian.

5 THE REPORTER: Could we take a break?

6 CHAIRPERSON MULÉ: Yes, let's take a five-minute
7 break and we'll reconvene.

8 Thank you.

9 (Thereupon a break was taken in
10 proceedings.)

11 CHAIRPERSON MULÉ: I would like to call this
12 meeting back to order. Just before we stopped for a break
13 here, I did call our next speaker, which is Hutch Der
14 Stepanian with American Waste Industries.

15 MR. STEPANIAN: Good morning, honorable Committee
16 members.

17 My name is Hutch Der Stepanian, I am the vice
18 president of American Waste Industries and in charge of
19 the recycling division. American Waste Industries is one
20 of the last small, privately owned local companies that
21 still exists in the Los Angeles area, and has a recycling
22 facility. We have been in existence since 1963, starting
23 with just one truck, and today have a hauling division of
24 some 50 trucks, a C&D recycling center, and employ about
25 150 individuals.

1 American Waste Industries is committed to
2 recycling, not just by words, but by our efforts and
3 actions of running our C&D recycling center for the past
4 seven years. We've been running our recycling center for
5 seven years.

6 Our recycling efforts, given our size, are a
7 credit to our company, especially compared with others,
8 even to some multinational companies who do not even have
9 a recycling center.

10 All these show the real commitment that we have
11 towards recycling, the same way that nearly all of the
12 cities, municipalities, politicians, and citizens are
13 striving to implement by saying no landfills, more
14 recycling, and more recycling centers.

15 We have been certified, by the City of Los
16 Angeles, as a C&D recycling center and have achieved a
17 recycling rate, that is the best in the city, for the last
18 two years, at 81.6 percent. We are also certified by the
19 cities of Santa Monica, Pasadena, and La Canada, West
20 Hollywood, among others.

21 Recently, we have seen a number of misconceptions
22 and misinformation being circulated about our facility. I
23 would like to address a few of our concerns.

24 The first important misinformation that is being
25 circulated is that American Waste Industries is asking for

1 a permit to increase our daily tonnage. This is
2 absolutely false. American Waste Industries acquired a
3 CPU in 1999 to accept 1500 tons of C&D materials daily,
4 and is operating under the same conditions, while the new
5 permitting process is going forward. We are not asking to
6 increase our daily tonnage in our proposed permit. We
7 realized what our general industry has come to recognize,
8 that only C&D, or for that matter, only one kind of
9 recycling is not the way to go for a recycling center, of
10 a waste hauling company, in the future.

11 We need to diversify in our ways of recycling and
12 become a more comprehensive recycler. Hence, we are
13 requesting to be permitted to keep our 1500 tons daily
14 intake but to divide it into different segments, namely
15 800 tons of C&D material, 300 tons of commingled
16 recycling, and 400 tons of solid waste transfer
17 capability, again for a total maximum of 1500 tons a day
18 and not a ton more.

19 Therefore, we have opted to apply by choice, for
20 the most restrictive of allowable permits available. That
21 is a solid waste facility permit. This name is misleading
22 itself because we will not and do not want to be a solid
23 waste recycling facility only, as I explained previously.

24 We are permitted to bring in a maximum of 1500
25 tons of C&D waste to our facility in a day. What we have

1 actually brought in for the past seven years of our
2 existence has been about an average of 450 tons a day.
3 This was done by our choice and nothing else. We
4 recognized that this average daily tonnage is what we can
5 accept and run our facility in a responsible manner, while
6 at the same time we are trying to erect new buildings,
7 acquire new equipment, and improve our recycling facility
8 overall. We will be able to run at full capacity once our
9 facility has taken its final form. This is a testament of
10 how responsibly we have been running our facility in the
11 past and will be in the future.

12 The other misinformation that is being circulated
13 is that the traffic in the area will increase
14 considerably. This is also false. Our facility will be
15 used primarily and foremost by our own company trucks. Our
16 company already has an overall total daily tonnage of
17 about 1000 tons of waste. This leaves us with only 500
18 additional tons for future expansion and for a limited
19 number of other hauling companies that we can contract
20 with to use our facility. We are not and will not be open
21 to the public, that is, for pickup trucks and such.

22 Our hauling division is physically a separate
23 property that is in the back of our recycling facility.
24 If our recycling facility did not exist, our trucks would
25 have to leave and come back to the hauling yard every time

1 they have to exchange a container or drop off or pick up a
2 container. This means that they will have to go to
3 another recycling facility, empty the contents of the
4 container, and then return to the yard, creating a bigger
5 traffic problem than if they come to our recycling
6 facility to start with, empty the contents, and just drive
7 around the block to our hauling yard in the back. This is
8 just simple common sense.

9 During the course of our permitting process, in
10 June of 2004, our package was accepted as complete by the
11 LEA and ready to be sent to Sacramento, to the California
12 Integrated Waste Management Board. But suddenly our
13 transfer processing report was stopped by the Los Angeles
14 District Attorney to have further restrictions added and
15 implemented in the planning of our facility above and
16 beyond of what is required.

17 We agreed to all the conditions proposed to us and
18 assured the district attorney that we want to be a model
19 recycling facility, one that they can show off to any
20 skeptic and use our facility as an example of what can be
21 done if you have the commitment to do it.

22 We actually went above and beyond what was
23 expected of us. For example, the agreement required us to
24 build our buildings with three sides enclosed. We are
25 actually enclosing all four sides of the buildings that we

1 are building. We are required to have a negative air
2 pressure system inside the buildings with particulate and
3 odor control filters incorporated in the system. We have
4 gone above and beyond this requirement by incorporating a
5 positive air flow system to the work area of the sort line
6 where the majority of our employees will be working. This
7 will assure that our employees will not be breathing the
8 air that is inside the building, but will be breathing the
9 outside air. All these show the real commitment that we
10 have to build a model recycling facility.

11 We have consistently followed the direction and
12 the lead of the local enforcement agencies and have
13 promptly and diligently corrected any shortcomings or
14 concerns that were noted. We are very responsive to
15 suggestions and have always worked successfully with field
16 representatives and inspectors of different agencies.

17 American Waste Industries' recycling facility is
18 an existing facility and has been for the past seven
19 years. I keep repeating that. We are at the last stages
20 of a long and new permitting process that is as cumbersome
21 and complicated that any human individual could make it to
22 be. At times, the process was so complicated and new,
23 that even some of the public agencies responsible for
24 guidance and advice were at a loss and faced with
25 uncharted grounds. All these issues open the ground for

1 certain individuals or entities that have their hidden
2 agendas and are opposed to recycling for one reason or
3 another, to satisfy their personal or collective political
4 aspirations, and oppose permitting facilities to advance
5 their own interests.

6 You are witnessing such an attempt at firsthand by
7 the International Brotherhood of Teamsters, who seem to
8 have taken up a sudden interest on the details of land use
9 issues more than their interest of creating and protecting
10 jobs in the United States and our local communities.

11 These types of issues are going to be more and
12 more important as landfills are closed down, as they
13 should be, and recycling centers need to come on line more
14 and more to be able to handle the waste stream. If every
15 recycling center has to go through this same road and face
16 similar opposition by a few individuals who will be able
17 to stop and prolong the process for their interests, this
18 state and the communities in it will be faced with very
19 big problems.

20 Californians need and want recycling centers.
21 Recycling is the way of the future. Your committee is
22 entrusted with the task of permitting recycling centers
23 like ours. Working together, we can make sure that
24 political games being played stay out of the important
25 work that we need to do together, and put the interests of

1 Californians ahead of everything else and bring more and
2 more recycling centers in line.

3 I thank you for giving me this opportunity to
4 express the point of view of our company.

5 Thank you.

6 CHAIRPERSON MULÉ: Thank you. Any questions?
7 Board Member Peace?

8 COMMITTEE MEMBER PEACE: I just have some
9 questions. On the agenda item, it says no peak or maximum
10 permitted traffic was discussed in the environmental
11 document.

12 Is this the same environmental document that will
13 be over the Bradley facility, that's two blocks away? Or
14 will -- each will have their own environmental document?

15 DEPUTY DIRECTOR LEVENSON: They have their
16 separate documents for each facility.

17 COMMITTEE MEMBER PEACE: Okay. So the permitted
18 traffic, you don't know if that will be in one for the
19 Bradley facility either? Is this --

20 DEPUTY DIRECTOR LEVENSON: We have commented on
21 the draft EIR for Bradley, but I'm not familiar with the
22 details today.

23 COMMITTEE MEMBER PEACE: Also, I wanted to ask, in
24 the stipulated judgment of July 28, 2004, it listed a
25 whole bunch of environmental controls. Have all those

1 been done? Do we know if those have been done or not?

2 CHAIRPERSON MULÉ: You need to come up --

3 DEPUTY DIRECTOR LEVENSON: Ask the operator or the
4 LEA to speak to whether those have been resolved or
5 implemented.

6 MR. STEPANIAN: No, it got held up because those
7 are stipulated judgements that have to be implemented once
8 we have our buildings in place. Some of the buildings
9 where we're going to have our C&D facility, eventually,
10 that's not even erected yet. So we cannot implement
11 something that we don't have.

12 CHAIRPERSON MULÉ: Board Member Peace, do you have
13 any other questions?

14 COMMITTEE MEMBER PEACE: Just have a question of
15 the LEA. I was glad to hear you're going to have a public
16 hearing, kind of a little late. But when -- If you have a
17 public hearing so the people in the community come and
18 voice their concerns, and you say "Oh, gee, you know, we
19 didn't think of that," we put that as a concern in the
20 permit. Will you be able to do that before the Board
21 meeting?

22 MR. SIMONIAN: I believe we could work that out
23 with Board staff. We've done that before.

24 COMMITTEE MEMBER PEACE: You can do that
25 beforehand?

1 MR. SIMONIAN: I think we can do a lot of things
2 before the Board finally considers it on May 16th.

3 COMMITTEE MEMBER PEACE: I guess they all have
4 controls now in place for all these things?

5 MR. SIMONIAN: Yes.

6 CHAIRPERSON MULÉ: Are there any other questions?
7 Board Member Wiggins?

8 COMMITTEE MEMBER WIGGINS: No.

9 CHAIRPERSON MULÉ: No? Okay.

10 Given the fact that we've received quite a bit of
11 correspondence late last week and staff has really not had
12 the opportunity to review that and check back on our
13 record. And also since -- In light of the fact that there
14 is a public hearing that will be held tomorrow evening on
15 this facilities permit, I think with the concurrence of
16 the Committee, I would like to defer any decision to the
17 full Board on the 16th, and also give our staff the
18 opportunity to review the information and to make a final
19 recommendation to the full Board, once they've reviewed
20 all the information.

21 So if that's okay with the Committee?

22 COMMITTEE MEMBER WIGGINS: I concur.

23 COMMITTEE MEMBER PEACE: Yes, that's fine with me
24 also.

25 CHAIRPERSON MULÉ: Okay. Then that's what we'll

1 do.

2 DEPUTY DIRECTOR LEVENSON: Madam Chair, just to
3 make sure the Committee's aware that we will go ahead and
4 review the documents. Given the publishing schedule for
5 getting updates into our electronic system, we will try to
6 mix that by Wednesday or Thursday, but there is a chance
7 that we would not have that data until Friday or Monday.
8 So whenever we have that completed, we will make sure it's
9 distributed to Board members and then to the parties here,
10 as well as to the LEA, the attorneys for the Teamsters,
11 and the owners so that everyone has a copy of that,
12 whenever it's ready.

13 CHAIRPERSON MULÉ: I understand the time
14 constraints, Howard, and I appreciate you're bringing that
15 to light.

16 The unfortunate thing is it will not be published
17 electronically until later. Okay. All right.

18 Are there any other public comments?

19 Anyone else wish to address the committee?

20 With that, this -- Mr. Tsuda.

21 MR. TSUDA: Wayne Tsuda, director of the LEA
22 program.

23 Just wanted to let you know that as soon as any
24 decision is made in the City of Los Angeles regarding the
25 appeal to city council or to the independent hearing

1 panel, I will let staff know that immediately.

2 CHAIRPERSON MULÉ: Okay. Thank you. We
3 appreciate that.

4 COMMISSIONER DANZINGER: A quick question. How
5 will we have visibility of what happens tomorrow? Is
6 there going to be some summary?

7 CHAIRPERSON MULÉ: We do have staff that will be
8 attending the public hearing.

9 COMMISSIONER DANZINGER: So that will be part of
10 the report to the Board at the Board meeting?

11 CHAIRPERSON MULÉ: Yes.

12 COMMISSIONER DANZINGER: Thank you.

13 CHAIRPERSON MULÉ: Good question. Very good
14 question. Okay.

15 Any other comments or questions? With that, this
16 meeting is adjourned.

17 Thank you all.

18 (Thereupon the California Integrated Waste
19 Management Board, Permitting and Enforcement
20 Committee meeting adjourned at 11:56 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand
3 Reporter of the State of California, do hereby certify:

4 That I am a disinterested person herein; that
5 the foregoing California Integrated Waste Management
6 Board, Permitting and Enforcement Committee meeting was
7 reported in shorthand by me, Kathryn S. Kenyon, a
8 Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 20th day of May, 2006.

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23 KATHRYN S. KENYON, CSR

24 Certified Shorthand Reporter

25 License No. 13061